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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	MANAGING AND ACCOUNTING FOR SHIPPING STRUCTURES
J. David Sandoval	:	
Serial No: 10/658,740	:	Group Art Unit: 3627
Filed: September 10, 2003	:	Examiner: Faris S. Almatrahi

SUPPLEMENTAL RESPONSE TO FINAL OFFICE ACTION

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Final Office Action mailed November 17, 2009, an **Amendment and Response to Final Office Action** was mailed to the Commissioner for Patents on May 17, 2010, along with a **Request fo Continued Examination (RCE) Transmittal**, and a **Petition for Extension of Time**. The Examiner is respectfully requested to consider the following remarks, when considering the previously filed **Amendment and Response to Final Office Action.**

FURTHER REMARKS RESPONSIVE TO FINAL OFFICE ACTION

The applicant has in the previously file **Amendment and Response to Final Office Action** set forth detailed comments as to how claims 1 - 21 of this application patentable distinguish over the cited U.S. Publication No. 2003/0083920 A1 - Richards et

al in view of U.S. Publication No. 2002/0174038 A1 - Chien. It is the applicant's intention by the following remarks to apprise the Examiner of the ongoing industry problem, to which the applicant's invention provides a solution. The following remarks will make reference to the following publications, which are listed in chronological order, and copies of which are attached:

1. IFCO Systems :: North America :: InXchange™, 2 pages (IFCO Website)

2. Are your pallet partners cheating on you? Follow these guidelines to make sure you get back the pallets you gave, by Susan Lacefield, Logistics Management, February 1, 2005. (4 pages)

3. PalletBoard Online Discussion Explores the Grocery Industry and Its Pallet Usage. Pallet Enterprise (23 Pages) (Pallet Enterprise Website Published in Pallet Enterprise - July 2005)

4. Pallet Profile's Recycle Record, August 2005. (4 Pages)

5. Supply-chain system costs of alternative grocery industry pallet systems, by: Charles D. Ray, Judd H. Michael, and Bruce N. Scholnick, Forest Products Journal, Vol. 56, No. 10, October 2006, pages 52 - 57. (6 Pages)

6. Harnessing Our Power: Pallet Industry Management System (PIMS), by: Bruce Scholnick, Pallet Central, October 2008, pages 15 - 17. (3 Pages)

7. Pallet Math = Profit$ for All: Experts Study the Economic Feasibility of an Industry Cooperative Pool, Pallet Enterprise, April 2010, Pages 22,25, 26. (3 Pages)

8. Feasibility Analysis of the PIMS Pallet Pool, by Judd Michael and Charles Ray, Pallet Central, April 2010, Pages 22 - 24. (3 Pages)

Prior to considering the above-listed documents, it is suggested that the Examiner consider a brief review of the applicant's invention as set forth on his website: **bussystemsinc.com**, copies of the four pages of which are enclosed.

Reference is first made to publication 5 set forth above, **Supply-chain system costs of alternative grocery industry pallet systems**, Forest Products Journal, Vol. 56, No. 10, October 2006, pages 52 - 57, reference 4 above, a study done at Penn State. The unobviousness and value of the method of the applicant's invention will be set forth by relating it to the study results set forth in the article. The Penn State study provides an economic comparison of pallet "rental" systems to pallet "purchased" systems, and concludes that the total cost favors the "purchased" systems over the rental systems. Specifically, the analysis states that the purchased system results in a total "pallet trip cost" of $3.65 compared to the rental system cost of $5.66 per pallet trip (figure 1). These results are illustrative of the overall conclusion reached by the authors. While this analysis concludes that the purchased system is more economical overall, it also illustrates that the economics favor certain types of companies in the supply chain over others, which is of course an undesirable result of the purchase system This undesirable result is overcome by the claimed method of the applicant's invention.

Figure 1 of the Penn State analysis illustrates the economic impacts of each system, "rental" and "purchase", on the companies involved in the supply chain process. Producer A employs the purchased system with Distributor X, while Producer B employs the rental system with Distributor Y. This illustration shows a "return credit" of $1.80, which represents the purchase of the used pallet by a recycling company from "Distributor X". As is noted in the Conclusions sections of the study, the "return credit" enjoyed by the distributor in the purchased system (Distributor X) is the determining factor that drives the economic advantage of the purchased system. Unfortunately the original "purchaser" of the pallet (Producer A) does not share in this revenue. As a result, many "producer-type" companies are inclined to favor the rental system, where their share of the system cost (Producer B example) is lower, even though total system cost of rental is higher.

This discrepancy in the "internal" economics of the competing systems establishes the need for an improved method of administering cyclic use and movement of one or moe reusable shipping structures. The applicant's method provides for the producer-type companies to "share" in the economic value of the "return credit" enjoyed by the distributor-type companies. In the figure 1 illustration, if Producer A "sells" the pallet to Distributor X for a negotiated price, less than the original purchased price, then Producer A's 'trip cost" is reduced, thus a more competitive alternative to the rental system for Producer A. An effectively negotiated price for this transaction between Producer A and Distributor X would result in a win-win relationship for both parties and the supply chain would enjoy the more cost effective system overall. The process of selling the pallet under product shipped, as a separate transaction for a discounted price, is an essential feature of the applicant's invention. It provides a mechanism for "sharing" the asset value of a reusable shipping structure, i.e. the pallet.

As the Penn State study states, the popular process for sharing this asset value in the past was the exchange system, which continues to be employed by many companies but is declining. The supply chain needs a mechanism to employ the most efficient system for pallet utilization, and the applicant's method provides this mechanism.

Referring to publication 6 set forth above, a more recent study also done at Penn State for the NWPCA, **Harnessing Our Power: Pallet Industry Management System (PIMS)**, Pallet Central, October 2008, pages 15 - 20, assesses the feasibility of a pallet program to provide an improved block-style pallet to compete with the block-style pallet currently offered by the rental companies. This program is called PIMS (Pallet Industry Management System). This feasibility study draws the same conclusions as the study detailed in publication 5 set forth above, that is, the economics favor the distributor over the producer, and that while the overall economics are positive, the producer community does not enjoy an economic incentive to participate. This illustrates that the need for a mechanism to solve this imbalance continues to exist.

Publication 1 set forth above, **IFCO Systems :: North America ::** set forth a pallet exchange program which has also been proposed as an alternative to the current pallet "rental" systems to pallet "purchased" systems. It does not offer the benefits of applicant's method.

Publication 2 set forth above, **Are your pallet partners cheating on you? Follow these guidelines to make sure you get back the pallets you gave,** sets forth known problems relating to the currently used methods of cyclical use and movement of pallets.

Publication 4 set forth above, **Pallet Profile's Recycle Record,** sets forth further known problems relating to the currently used methods of cyclical use and movement of pallets.

Publication 3 set forth above, **PalletBoard Online Discussion Explores the Grocery Industry and Its Pallet Usage** is the record of an online discussion in which the applicant took part. Early in the discussion the applicant identified himself as "Sincerely Interested" and later by his name "Dave Sandoval - DS". Again, this online discussion sets forth further known problems relating to the currently used methods of cyclical use and movement of pallets, and the advantages of the applicant's claimed method.

Publication 7 set forth above, **Pallet Math = Profit$ for All: Experts Study the Economic Feasibility of an Industry Cooperative Pool,** is a further discussion of the PIMS (Pallet Industry Management System) system described in Publication 4 discussed above. More particularly, it sets forth the costs which need to be addressed to implement the system. Like the Penn State study in publication 4, it recognizes that an unreasonably large portion of the cost is placed on the shipper or product manufacturer.

Publication 8 set forth above, **Feasibility Analysis of the PIMS Pallet Pool**, is a further discussion of the PIMS (Pallet Industry Management System) system described in Publication 4 discussed above, and Publication 7 discussed above. More particularly,

it relates to a computer modeling of the system, and the factors to be considered in implementing the system.

The eight publications set forth above, indicate that there is a problem with respect to the currently used methods of administering cyclic use and movement of reusable shipping structures. Further, it sets forth at least one proposed system PIMS (Pallet Industry Management System), intended to overcome the problems with the current used methods. However, none of these publications suggest or even hint at the applicant's method for administering cyclic use and movement of reusable shipping structures, other than the applicant's own comments in Publication 6. Even though many, in the industry relating to the administering cyclic use and movement of reusable shipping structures, have been searching for an improved method, none have proposed the applicant's system.

In light of this background relating to systems for administering cyclic use and movement of reusable shipping structures, there is no reason to believe that the disclosures of U.S. Publication No. 2003/0083920 A1 - Richards et al in view of U.S. Publication No. 2002/0174038 A1 - Chien, would suggest the applicants claimed method of administering cyclic use and movement of reusable shipping structures.

In view of the remarks set forth above, and in the **Amendment and Response to Final Office Action** was mailed to the Commissioner for Patents on May 17, 2010, it is respectfully submitted that Claims 1 - 8 and 10 - 18 patentable distinguish over the cited Richard and Chien published applications for the reasons set forth above. Claims 3,11,13, and 14 patentable distinguish over the cited Richard and Chien published applications for the reasons set forth above with respect to claim 1, from which they depend. Further, claims 9 and 19 - 21 patentable distinguish over the cited Richard and Chien published applications and the Foodsevice publication for the reasons set forth above.

It is respectively submitted that all of the claims currently in this application, claims 1 - 21 are allowable and an early allowance of this application is respectfully

requested.

The applicant and his attorney would very much appreciate having a telephonic interview with the Examiner before a first Office Action following the Request for Continued Examination. It is the applicant's intent to provide to the Examiner a better understanding of his invention. The applicant and his attorney will make every effort to be available at a time convenient to the Examiner. The applicants attorney would appreciate a telephone call from the Examiner to set a time for the telephonic interview.

Respectfully submitted,

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